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4 Attorney for Plaintiff Johnny McFarland,
5 and all others similarly situated.

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

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11 JOHNNY MCFARLAND, on behalf of himself) CASE NO. CV 07-03953 PJH
and all others similarly situated,)
12 Plaintiff,) NOTICE OF MOTION AND PLAINTIFF'S
13 vs.) MOTION FOR PARTIAL SUMMARY
14) JUDGMENT
GUARDSMARK, LLC, and Does 1 through 50,) Date: 2/13/08
15 inclusive,) Time: 9:00 a.m.
16 Defendants.) Ctrm: 3, 17th Floor
Judge: Hon. Phyllis J. Hamilton

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18 TO EACH PARTY AND THEIR ATTORNEYS OF RECORD:

19 PLEASE TAKE NOTICE that on February 13, 2008, at 9:00 a.m. or as soon thereafter as
20 the matter can be heard in Courtroom 3, 17th Floor, of the above-entitled court, located at 450
21 Golden Gate Avenue, San Francisco, California, Plaintiff Johnny McFarland will move the above-
22 entitled court for an order granting partial summary judgment. This motion will be made on the
23 grounds that Labor Code Sections 219, 226.7, 512 and applicable Wage Orders, mandate that an
24 employee cannot agree to waive his or her right to an off-duty meal period for both meal periods
25 in a given day. If the employee's second meal period is not off-duty, and the employee agreed to
26 waive his or her right to an off-duty meal period for the first meal period, the employer must pay
27 the employee an additional hour of compensation for the second meal period as an employee
28 cannot waive his or her right to an off-duty meal period for both meal periods.

1 This motion will be based on this Notice, the Memorandum of Points and Authorities filed
2 herewith, the Appendix of Decisions filed herewith, the Request for Judicial Notice filed herewith,
3 the Joint Statement of Undisputed Facts, the complete files and records in this action, and such
4 other argument and documents as may be presented at the hearing on this Motion.

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6 Date: January 9, 2008

QUALLS & WORKMAN, L.L.P.

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8 By: /S/ Robin G. Workman
Robin G. Workman
9 Attorneys for Plaintiff Johnny McFarland,
and all others similarly situated.
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PROOF OF SERVICE

I, the undersigned, hereby declare:

I am a member of the bar of this court. I am over the age of eighteen years and not a party to the within action. My business address is Qualls & Workman, L.L.P., 244 California Street, Suite 410, San Francisco, California.

October 25, 2007, I served a true and correct copy of the **NOTICE OF MOTION AND PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT** electronically. I caused said documents to be transmitted using ECF as specified by General Order No. 45 to the following parties:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on January 9, 2008, at San Francisco, California.

/S/ Robin G. Workman